Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

REPLY COMMENTS OF COOK TELECOM, INC. ("COOK") IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING ("INTERCONNECT NPRM")

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Cook is a family-owned provider of paging services in California, Oregon, and Washington. Cook is also a member of the Allied Personal Communications Industry Association of California ("Allied"). These Comments are intended (1) to endorse the more extensive comments filed by Allied in this NPRM, and (2) to give concrete examples of how many of the changes proposed herein would gravely prejudice Cook.

In 1996, Cook sought to interconnect its facilities with Pacific Bell on the terms of the newly amended Telecommunications Act ("Act"). Pacific denied that the termination compensation provisions of the Act applied to Cook and the matter went to arbitration. The California Public Utilities Commission ("CPUC") found in Cook's favor, but Pacific appealed to the Federal District Court for the Northern District of California. The District Court also found in Cook's favor, but Pacific again appealed, this time to the Ninth Circuit Court of Appeals. The Ninth Circuit affirmed the entitlement of paging carriers to termination compensation under the Act in Pacific Bell v. Cook Telecom, Inc. 197 F3d 1236 (9^{th} Circuit 1999). While Pacific did not take Cook to the Supreme Court, it has continued to fight its battle in other forums.

Now it is proposed to reverse the rule in Cook, and the Commission's own regulations which have been in effect since November 6, 1996. Such a result would be contrary to the Act, and greatly prejudicial to carriers like Cook. Thus:

1. At Great Expense To Itself Cook Has Relied On The Act And Current FCC Rules Regarding Interconnection. Cook, with the assistance of other carriers, has spent hundreds of thousands of dollars in California alone fighting Bell company intransigence in the face of the plain and clear language of both the Act and the regulations. Cook individually has spent large sums redesigning its network to conform with these rules: the company has migrated from inefficient Type 1 interconnection to more efficient Type-2 schemes. The company has established fewer, but larger interconnection paths to ILEC tandems. Finally, Cook has reduced the number of paging switches which formerly were required to serve a multitude of rural rate points. Pacific Bell and other ILECs resisted these efforts prior to 1996. However, once it became clear under the Act that the ILECs might have to bear a greater share of Cook's transport and termination costs, they too became motivated to improve the efficiency of the paging/landline interconnect scheme.

2. Allegations Of Uneconomic Arbitrage Do Not Apply. The NPRM now proposes to abolish termination compensation not only where traffic and/or costs are in rough balance, but also for paging carriers which will receive no corresponding benefits since they deliver no calls to the ILECs. The NPRM suggests that termination compensation leads to uneconomic arbitrage, and the ILECs have argued on earlier occasions that such compensation would motivate paging carriers to "gold plate" their networks. But neither is true for paging where actual termination costs are significantly higher than the amounts currently paid by the ILECs. This was clearly shown in the litigation against Pacific, where Cook performed two cost studies,

and the CPUC compiled its own study of the termination costs incurred by paging carriers. Cook's first study included all operating costs, including transmitters and control links but excluded costs of capital and/or a profit margin. The study concluded that Cook's actual, presently incurred costs amounted to slightly more than $0.02 per call. The second study per the requirements of the CPUC, was TELRIC based, and was confined to switch-related expenses. On this basis, Cook found costs of slightly less than $.005 per call. The CPUC study resulted in TELRIC costs of $.0021 per call. After transited traffic was excluded, the net payment to Cook ($.00174/call) is less than half of Cook's own TELRIC estimate, and only one-tenth of the actual costs incurred by Cook in connection with completing ILEC originated calls.

3. Abolishing The Termination Compensation Rule Would Re-Incent The ILECs To Force Insufficient Interconnect Architecture On Paging Carriers. As we have shown, when termination compensation is less than actual costs incurred, there is no motivation for a paging carrier to "gold plate" or otherwise "arbitrage" the present system. However, the reverse would be the case if the calling party (or the ILEC in a paging context) were freed from any obligation to compensate for transport and termination. If these costs were transferred to the paging carrier, the ILEC would be motivated to shift its current obligations to the paging carrier, and to require more complex, and more expensive interconnect methods. Cook has already seen examples of this kind of reverse arbitrage: ILECs such as Verizon are demanding that POIs be established at every rate center. In California, the ILECs have proliferated the number of rate centers in order to increase their own intraLATA toll revenue. This in turn has forced Cook to obtain numbers rated to each of these locations. Cook has individually sought ILEC agreement to consolidate rate centers for land-to-pager calls, but its suggestions have been refused. Now, the company is faced, as a result of this NPRM, with possibly having also to establish dedicated links at its own

expense to each of these remote POIs even though all experts agree that shared transport is the more efficient way to serve such locations.

4. Dedicated Interconnection Facilities Should Be Provided By The ILECs At Rates Based on Forward-Looking Costs. Cook has interconnection agreements with three major ILECs, i.e., Pacific Bell, Qwest, and Verizon. Pacific Bell and Verizon insist on charging full access tariff rates for all interconnect facilities even though Cook has sought to purchase such facilities at the lower forward-looking rates determined by the CPUC in its pricing of unbundled network elements. Cook has also sought alternative sources for dedicated transport, and has found few if any alternatives at reasonable prices. This has greatly hindered Cook's ability to rationalize its network.

In conclusion, Cook urges the Commission to confine any "bill and keep" order to situations where each connecting carrier has offsetting benefits and obligations. Where as in the paging situation one carrier is forced to bear a clearly disproportionate share of transport and termination costs, the present regulation is not only effective but it is required by the Act. As to facilities issues, it should be reaffirmed that:

i) The originating carrier has the obligation of delivering its customers calls to the terminating carrier's switch,

ii) ILECs should be required to furnish dedicated transport at their forward-looking costs when the underlying facilities are utilized to carry interconnected local calls; and

iii) The commission should reject attempts to force connecting carriers at their own expense to provision remote POIs at multiple rate centers in a LATA.

Respectfully Submitted,

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